

Application Serial No. 10/082,011
Attorney Docket No. 86012-31500 USPT

REMARKS

Applicant appreciates the Examiner's acknowledgement of the allowable subject matter of claims 36, 37 and 50. Claims 3, 4, 7-15, 30, 33, 34, 35, 37-43, 45, 46, 49, and 50 are presented herein for the Examiner's review and consideration. Applicant requests that claims 1, 2, 6, 31, 32, 36, 48 and 51 be canceled, with the reservation to file these claims in a subsequent application. Applicant further requests that claims 3,4,7-15, 30, 33, 34, 35, 37-43, 45, 46, 49, and 50 be amended as set forth above. Support for these amendments can be found throughout the present application, and in particular in the originally filed claims and in the drawings. Thus, no new matter is introduced by these amendments.

Telephone Interview

Applicant acknowledges with appreciation the Examiner's courtesy in participating in a telephone interview with Applicant's Attorney on March 2, 2005. In accordance with Section 713.04 of the MPEP, Applicant sets forth the substance of the interview as follows.

During the telephone interview, the Applicant's Attorney and the Examiner discussed the independent claims presently pending and the proposed amendment provided by Applicant's Attorney to the Examiner. The prior art relied upon by the Examiner in the previous Office Action was discussed with particular attention directed to US 5,980,109 to Wan and US 4,558,801 to Vilutis. Applicant's Attorney noted that the disclosure of Wan at column 1, lines 58 to 62, which was initially relied upon by the Examiner, does not anticipate nor render obvious the proposed amended claims, independently or in combination with the prior art of record. The Examiner agreed to enter the present Amendment into the file of this application for consideration and to place this application in better condition for allowance or appeal.

Claim Rejections Under 35 USC § 112

In the Office Action, the Examiner rejects claims 1, 2, 6-15, 31, 32, 36-43, 46, 48 and 50 under 35 U.S.C. § 112, first paragraph and under 35 U.S.C. § 112, second paragraph. Applicant respectfully traverses these rejections. However, solely in the interest in expediting allowance of this application, Applicant requests that independent claims 1 and 31

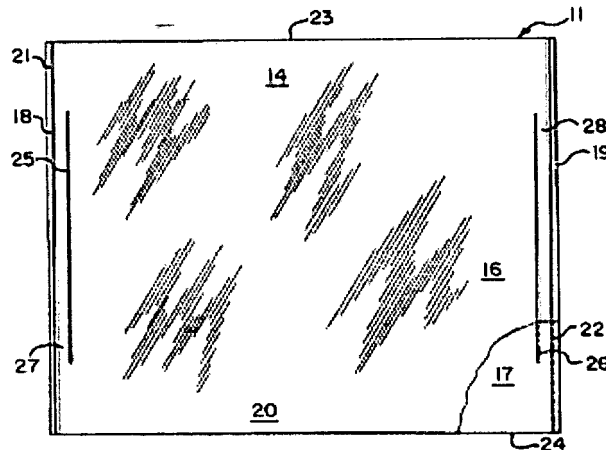
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and dependent claims 2, 6, 32, 36 and 48 be canceled without prejudice. Applicant reserves the right to file and prosecute the subject matter of these claims in a continuing application. Further, the dependency of claims 7-15, 37-43, and 46 has been amended. Such amendment renders the rejection to these claims moot.

Claim Rejections Under 35 USC 102(b)

In the Office Action, the Examiner rejects claim 30 under 35 U.S.C. 102(b) as being anticipated over U.S. Patent No. 4,558,801 to Vilutis ("Vilutis"). Applicant respectfully traverses this rejection.

Vilutis is directed to a liner in the form of a sleeve-like member. As illustrated below, the liner has opposing panels joined together along opposing edges to define an open top portion 23 and an open bottom portion 24. The liner of Vilutis also has two conforming seals 25, 26, each of which is spaced inwardly from an opposing side of the liner. Each conforming seal has a top end and a bottom end. As shown below, it appears that each conforming seal is disposed equidistant from the open top portion 23 of the liner and the open bottom portion 24 of the liner.



In contrast, amended claim 30 recites, *inter alia*, a bag comprising a first layer and a second layer joined along a pair of opposing sides and a closed bottom bridging the opposing sides. As Vilutis is directed to a sleeve member, there is no closed bottom. Thus, Vilutis does not disclose or further suggest, each and every feature of the bag of amended claim 30. Accordingly, Applicant respectfully requests that the rejection to claim 30 over Vilutis be withdrawn.

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In the Office Action, the Examiner rejects claim 30 under 35 U.S.C. § 102(b) as being anticipated over U.S. Patent No. 5,980,109 to Wan ("Wan"). Applicant respectfully traverses this rejection.

The self-tied garbage bag of Wan is provided with a tie strip, which is removable from the bag body and can be used to tie the bag closed. Unlike the first and second narrowing seals of the present invention, as recited in amended claims 30 and 45, the garbage bag of Wan has a pair of adjacent thermal bonding lines 1 and 5 to define one tie strip disposed on one side of the bag. Located within and between the pair of thermal bonding lines is a tear line or a rupturable separation line 2 thereby providing a removable tie strip.

In contrast, amended claim 30 recites a polymeric bag including, *inter alia*, a first narrowing seal and a second narrowing seal to secure a first panel to a second panel of the bag. Wan does not disclose or further suggest first and second narrowing seals as recited. As noted above, the focus of Wan is to provide a bag having a removable strip to be used as a tie. Further, there is no motivation in Wan to include first and second narrowing seals as recited. Accordingly, Wan simply does not disclose each and every feature of the bag, as recited in amended claim 30.

Applicant respectfully submits that claim 30 is allowable over Wan. Accordingly, Applicant respectfully requests that the rejection to claim 30 over Wan be withdrawn.

In the Office Action, the Examiner rejects claim 45 under 35 USC § 103(a) over Wan. Applicant respectfully traverses.

Claim 45 recites, *inter alia*, a polymeric bag and container in combination. The bag comprises a first narrowing seal and a second narrowing seal, each narrowing seal sealing a first panel to a second panel. As discussed above, Wan does not disclose or suggest a bag having first and second narrowing seals, as recited. Instead, Wan discloses a bag having one removable tie strip. In the Office Action, the Examiner suggests that "Wan discloses that the narrowing seal may extend along one or both of the lateral sides of the bag. See column 1, lines 58-61. Therefore, the recited first and second narrowing seals are [allegedly] met by Wan."

Applicant respectfully notes that the disclosure of Wan at column 1, lines 58 to 61, refers to Figure 2, and to the action of tearing away the sole tie strip 3 from the bag. Specifically, Wan discloses that "a user fills garbage into the bag 4, then tears away the tie strip 3 along both sides [i.e., walls] starting from the lower points and respectively following

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the fine-hole rupturable tear-line 2 to the division portion so that the division portion of the tie strip 3 connects the tie strip 3 integrally with the bag body 4 close to the mouth." As discussed, Applicant respectfully submits that neither this section of Wan's disclosure nor the remainder of Wan discloses or suggests a bag comprising first and second narrowing seals. Accordingly, Applicant respectfully submits that claim 45 is novel and unobvious in view of Wan. Thus, Applicant respectfully requests that the rejection of claim 45 over Wan be withdrawn.

Furthermore, the cancellation of Claims 1, 2, 6, 31, 32, 48 and 51, and the amendment to Claims 3, 4, 7-15, 30, 33, 34, 37-43, 45, 46 and 49 render moot the remaining rejections of set forth by the Examiner in the previous Office Action based on U.S. 4,919,546 to Imazeki, U.S. 5,944,251 to LaFleur, U.S. 4,171,764 to Schonbach, U.S. 4,759,642 to Van Erden, and U.S. 5,720,557 to Simonsen, either individually or in combination.

On the basis of the foregoing Amendment and Remarks, Applicant respectfully submits that the pending claims of the present application are allowable over the prior art of record. Applicant thus respectfully requests that this Amendment After Final be entered by the Examiner and the rejections of the pending claims be withdrawn.

Applicant submits that this Amendment After Final and the accompanying Remarks do not raise new issues for consideration or necessitate the undertaking of any additional search of the art by the Examiner because all of the elements and their relationships were either earlier claimed or inherent in the claims as examined. This Amendment After Final should therefore allow for immediate action by the Examiner.

Applicant also submits that entry of this Amendment After Final and the accompanying Remarks would place the present application in better form for appeal, should the Examiner dispute the patentability of any of the pending claims.

The Examiner is invited to contact the undersigned at (212) 294-3315 if any additional information or assistance is required.

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The Commissioner is hereby authorized to charge any additional fees (or credit any overpayment) associated with this paper to Winston & Strawn Deposit Account No. 50-1814, Ref. No. 086012-31500 USPT. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and such fee should also be charged to Winston & Strawn Deposit Account 50-1814, Ref. No. 86012-31500 USPT.

Respectfully submitted,

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